

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Judge Victoria Kaufman, Presiding
Courtroom 301 Calendar**

Thursday, November 17, 2016

Hearing Room 301

10:30 AM

1:15-10011 Brent Carpenter

Chapter 7

#1.00 Trustee's Final Report and Applications for Compensation

Nancy Zamora, Chapter 7 Trustee

LEA Accountancy, LLP, Accountants for Trustee

Docket 142

Tentative Ruling:

Nancy Hoffmeier Zamora, chapter 7 trustee - approve fees of \$53,534.04 and reimbursement of expenses of \$2,195.00.

LEA Accountancy, accountant to chapter 7 trustee – approve fees of \$2,800.50 and reimbursement of expenses of \$154.83.

Trustee must submit the order within seven (7) days of the hearing.

Note: No response has been filed. Accordingly, no court appearance by the chapter 7 trustee or his/her professionals is required. Should an opposing party file a late opposition or appear at the hearing, the Court will determine whether further hearing is required and the relevant applicant(s) will be so notified.

Party Information

Debtor(s):

Brent Carpenter

Represented By
David S Hagen
Edward T Weber

Trustee(s):

Nancy J Zamora (TR)

Pro Se

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1:15-10282 Janet Lee Rothstein

Chapter 7

#2.00 Trustee's Final Report and Applications for Compensation

Nancy Zamora, Chapter 7 Trustee

SLBiggs, Accountant for Chapter 7 Trustee

Docket 34

Tentative Ruling:

Nancy Hoffmeier Zamora, chapter 7 trustee - approve fees of \$3,150.00 and reimbursement of expenses of \$859.58.

SLBiggs, A Division of SingerLewak, accountant to chapter 7 trustee – approve fees of \$2,860.00 and reimbursement of expenses of \$164.23.

Trustee must submit the order within seven (7) days of the hearing.

Note: No response has been filed. Accordingly, no court appearance by the chapter 7 trustee or his/her professionals is required. Should an opposing party file a late opposition or appear at the hearing, the Court will determine whether further hearing is required and the relevant applicant(s) will be so notified.

Party Information

Debtor(s):

Janet Lee Rothstein

Represented By
Sanaz S Bereliani

Trustee(s):

Nancy J Zamora (TR)

Pro Se

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10:30 AM

1:16-11769 Paula Dean Laddusire

Chapter 11

#3.00 First and Final Application for Compensation and Reimbursement
of Expenses of Crowe Horwath LLP Accountants and Financial Advisors
for Debtor

fr. 10/20/16

Docket 65

Tentative Ruling:

Crowe Horwath LLP ("Applicant"), accountants and financial advisers to the debtor and debtor in possession - approve fees in the amount of \$25,000, pursuant to 11 U.S.C. § 330.

Note: No response has been filed. Accordingly, no court appearance by Applicant is required. Should an opposing party file a late opposition or appear at the hearing, the Court will determine whether further hearing is required and Applicant will be so notified.

Party Information

Debtor(s):

Paula Dean Laddusire

Represented By
Clifford Bordeaux
Jerome S Cohen

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Hearing Room 301

1:00 PM

1:13-10404 MIR Printing & Graphics

Chapter 11

#4.00 Post confirmation status conference

fr. 1/9/2014; 5/22/14; 6/19/14; 11/20/14; 5/21/15; 11/19/15; 5/19/16

Docket 90

Tentative Ruling:

Continue to **1:00 p.m. on May 18, 2017**. On or before May 4, 2017, the reorganized debtor must file an updated status report explaining what progress has been made toward consummation of the confirmed plan of reorganization. The report must be served on the United States trustee and the 20 largest unsecured creditors. The status report must comply with the provisions of Local Bankruptcy Rule 3020-1(b) **AND BE SUPPORTED BY EVIDENCE**.

Appearances are excused on November 17, 2016.

Party Information

Debtor(s):

MIR Printing & Graphics

Represented By
Ovsanna Takvoryan

Movant(s):

MIR Printing & Graphics

Represented By
Ovsanna Takvoryan

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1:00 PM

1:13-17509 Peter Medvedev and Rita Medvedev

Chapter 11

#5.00 Post Confirmation status conference

fr. 11/19/15; 5/19/16

Docket 157

Tentative Ruling:

Continue to **1:00 p.m. on May 18, 2017**. On or before May 4, 2017, the reorganized debtors must file an updated status report explaining what progress has been made toward consummation of the confirmed plan of reorganization. The report must be served on the United States trustee and the 20 largest unsecured creditors. The status report must comply with the provisions of Local Bankruptcy Rule 3020-1(b) **AND BE SUPPORTED BY EVIDENCE**.

Appearances are excused on November 17, 2016.

Party Information

Debtor(s):

Peter Medvedev

Represented By
Joseph Caceres

Joint Debtor(s):

Rita Medvedev

Represented By
Joseph Caceres

Movant(s):

Rita Medvedev

Represented By
Joseph Caceres

Peter Medvedev

Represented By
Joseph Caceres

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1:00 PM

1:14-13695 GACN Inc

Chapter 11

#6.00 Status conference re: chapter 11 case

fr. 10/16/14; 1/22/15; 4/23/15; 5/21/15; 9/10/15; 11/5/15; 12/3/15;
12/17/15; 4/7/16; 7/21/16; 9/8/16

Docket 1

Tentative Ruling:

Based on *Debtor's Ninth Case Status Conference Report* [doc. 209], the Court will continue the chapter 11 case status conference to **1:00 p.m. on January 19, 2017**. In connection with that continued status conference, the Court will assess, among other things, whether the debtor has timely filed its monthly operating reports and paid all fees due to the United States Trustee.

The debtor in possession or any appointed chapter 11 trustee must file a status report, to be served on the debtor's 20 largest unsecured creditors, all secured creditors, and the United States Trustee, no later than **14 days** before the continued status conference. The status report must be supported by evidence in the form of declarations and supporting documents.

Appearances on November 16, 2016 are excused.

Party Information

Debtor(s):

GACN Inc

Represented By
Johnny White
Simon Aron
Elsa M Horowitz

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Hearing Room 301

1:00 PM

1:14-15621 Edward D. Roane

Chapter 11

#7.00 U.S. Trustee Motion to dismiss or convert case with an order directing payment of quarterly fees and for judgment thereon

fr. 10/20/16(stip)

Stipulation filed 11/4/16

Docket 164

***** VACATED *** REASON: Order approving stipulation to resolve motion entered 11/14/16 [doc. 174]**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Edward D. Roane

Represented By
Michael Jay Berger

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1:00 PM

1:16-12465 Meng Cheng Jin

Chapter 11

#8.00 Status conference re chapter 11 case

Docket 1

Tentative Ruling:

Pursuant to 11 U.S.C. §§ 105(a) and 1112(b)(1) and (4)(F) and (H), this case will be dismissed. The debtor has not timely filed his August, September, and October 2016 monthly operating reports.

Based upon the Court's review of the debtor's schedules of assets and liabilities and statement of financial affairs, filed on September 20, 2016, and the claims docket, the Court concludes that it is in the best interest of creditors and the estate to dismiss this case.

The Court will prepare the order.

Party Information

Debtor(s):

Meng Cheng Jin

Represented By
Giovanni Orantes

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1:00 PM

1:16-12684 Ronald Gillyard

Chapter 11

#9.00 Status conference re chapter 11 case

Docket 1

Tentative Ruling:

Pursuant to 11 U.S.C. §§ 105(a) and 1112(b)(1) and (4)(E), (F) and (H), this case will be dismissed. Contrary to the Court's order entered on October 18, 2016 [doc. 33], the debtor did not timely file a status report providing the information required by the order. In addition, the debtor has not timely filed his September and October 2016 monthly operating reports.

Based upon the Court's review of the debtor's schedules of assets and liabilities and statement of financial affairs, filed on September 28, 2016, and the claims docket, the Court concludes that it is in the best interest of creditors and the estate to dismiss this case. The Court notes that the debtor has scheduled a single creditor, which entity's debt apparently is secured by the debtor's residence; the debtor cannot modify the interest rate or term of the pertinent secured debt through a chapter 11 plan. 11 U.S.C. § 1123(b)(5).

The Court will prepare the order.

Party Information

Debtor(s):

Ronald Gillyard

Represented By
Marvin Levy

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1:00 PM

1:16-13172 Early Scholars Education, Inc A California Corpora

Chapter 7

#9.10 Order to show cause re dismissal

Docket 6

Tentative Ruling:

The Court will dismiss this case. The debtor has not filed a petition and otherwise appeared with counsel as required by LBR 9011-2(a).

The Court will prepare the order.

Party Information

Debtor(s):

Early Scholars Education, Inc A	Pro Se
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Trustee(s):

Amy L Goldman (TR)	Pro Se
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2:00 PM

1:16-11174 Alfredo Delgado

Chapter 11

#10.00 Disclosure statement describing chapter 11 plan of reorganization

Docket 63

Tentative Ruling:

The debtor must address the following:

1. Because the debtor is an individual, the disclosure statement must address the requirements of 11 U.S.C. §§ 1123(a)(8). Currently, the disclosure statement does not.
2. The debtor must lodge an order regarding the status of the claim of Real Time Resolutions, Inc., which did not timely respond to the motion to value the debtor's real property.
3. On October 21, 2016, the LA County Treasurer and Tax Collector ("LACTTC") filed proof of claim 5-1, asserting a secured claim in the amount of \$9,644.70 for 2016-2017 property taxes. The disclosure statement must clarify the treatment of LACTTC's claim, and whether such property taxes will be paid through the \$901.66 monthly escrow payment as stipulated with Deutsche Bank/Nationstar [doc. 61].
4. Page 16, line 6 of the disclosure statement states that the debtor will pay \$150 per month to Class 2 general unsecured creditors. However, page 25 of the disclosure statement and the projections in Exhibit B indicate that the debtor will pay \$100 per month.

If the debtor satisfactorily addresses the foregoing, the Court may adopt the following confirmation schedule.

Proposed dates and deadlines regarding "Debtor's Chapter 11 Original Plan" (the "Plan")

If, pursuant to 11 U.S.C. § 1125, the Court approves "Debtor's Disclosure Statement Describing Chapter 11 Plan of Reorganization" [doc. 63]:

Hearing on confirmation of the Plan: **January 26, 2017 at 1:00 p.m.**

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Chapter 11

Deadline for the debtor to mail the approved disclosure statement, the Plan, ballots for acceptance or rejection of the Plan and to file and serve notice of: (1) the confirmation hearing and (2) the deadline to file objections to confirmation and to return completed ballots to the debtor: **December 9, 2016.**

The debtor must serve the notice and the other materials (with the exception of the ballots, which should be sent only to creditors in impaired classes) on all creditors, and the United States Trustee.

Deadline to file and serve any objections to confirmation and to return completed ballots to the debtor: **January 6, 2017.**

Deadline for the debtor to file and serve the debtor's brief and evidence, including declarations and the returned ballots, in support of confirmation, and in reply to any objections to confirmation: **January 16, 2017.** Among other things, the debtor's brief must address whether the requirements for confirmation set forth in 11 U.S.C. § 1129 are satisfied. These materials must be served on the U.S. Trustee and any party who objects to confirmation.

The debtor must submit an Order incorporating the above dates, times and deadlines no later than seven (7) days after this hearing.

Party Information

Debtor(s):

Alfredo Delgado

Represented By
Matthew D Resnik
M Jonathan Hayes
Matthew D Resnik
Roksana D. Moradi

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1:16-11174 Alfredo Delgado

Chapter 11

#11.00 Status conference re chapter 11 case

fr. 6/9/16; 10/6/16

Docket 1

Tentative Ruling:

Has the debtor filed his 2015 income tax returns?

Party Information

Debtor(s):

Alfredo Delgado

Represented By
Matthew D Resnik
M Jonathan Hayes
Matthew D Resnik

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1:16-12282 Alfredo Velasco Palma

Chapter 7

#12.00 Objection to debtor's claim of homestead exemption

Docket 30

Tentative Ruling:

Sustain.

I. BACKGROUND

On August 8, 2016, Alfredo Velasco Palma ("Debtor") filed a voluntary chapter 7 petition. David Seror was appointed the chapter 7 trustee (the "Trustee").

In Debtor's petition, Debtor stated that he resides at 7702 Oakdale Avenue, Winnetka, CA 91306 (the "Oakdale Property"). On September 6, 2016, Debtor filed his schedule C [doc. 21], claiming an exemption in his "single family home" in the amount of \$175,000 pursuant to California Code of Civil Procedure § 704.730. On October 14, 2016, Debtor filed his schedule A/B [doc. 28]. In his schedule A/B, Debtor listed his interest in real property located at 962 N. Hunters Hill Drive, Walnut, CA 91789 (the "Walnut Property"). The Walnut Property is owned by Debtor and his former spouse, as joint tenants. Debtor also filed an amended schedule C, again claiming an exemption in the Walnut Property in the amount of \$175,000.

On October 27, 2016, the Trustee filed an objection to Debtor's claim of exemption in the Walnut Property (the "Objection") [doc. 30], on the basis that Debtor does not reside at the Walnut Property. On November 3, 2016, Debtor filed an opposition to the Objection (the "Opposition") [doc. 38]. The Opposition is not supported by any evidence, but Debtor alleges that, although he has not lived in the Walnut Property for years, he plans to move back into the Walnut Property and regards it as his residence.

On November 10, 2016, the Trustee filed a reply to the Opposition (the "Reply") [doc. 42]. Attached to the Reply is the family court dissolution judgment which divided property between Debtor and his former spouse (the "Dissolution

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Chapter 7

Judgment"). Reply, Exhibit 1. The Dissolution Judgment was entered on March 14, 2016, i.e., approximately five months prepetition. The Dissolution Judgment adopted a stipulation between Debtor and his former spouse. In relevant part, Debtor and his former spouse agreed to sell the Walnut Property and distribute proceeds in accordance with the stipulation.

II. ANALYSIS

Under 11 U.S.C. § 522(l), "[u]nless a party in interest objects, the property claimed as exempt [on debtor's schedules] is exempt." However, Federal Rule of Bankruptcy Procedure ("Rule") 4003(b) provides that

a party in interest may file an objection to the list of property claimed as exempt within 30 days after the meeting of creditors held under § 341(a) is concluded or within 30 days after any amendment to the list or supplemental schedules is filed, whichever is later. The court may, for cause, extend the time for filing objections if, before the time to object expires, a party in interest files a request for an extension.

Rule 4003(b)(1).

"[W]here a state law exemption statute specifically allocates the burden of proof to the debtor, Rule 4003(c) does not change that allocation." *In re Diaz*, 547 B.R. 329, 337 (B.A.P. 9th Cir. 2016); *see also Raleigh v. Ill. Dep't of Revenue*, 530 U.S. 15, 120 S.Ct. 1951, 147 L.Ed.2d 13 (2000) (holding that the burden of proof is a substantive element of state law applicable when federal courts apply state law).

Pursuant to California Code of Civil Procedure ("CCP") § 703.580(b) and CCP § 704.780(a), Debtor has the burden of proof that he is entitled to the claimed homestead exemption. *See Diaz*, 547 B.R. at 336-37 (applying these statutes to a debtor's claim of a homestead exemption); *and People v. Williams*, 2007 WL 1031693, at *1 (Ct. App. Apr. 6, 2007) ("The burden of proving entitlement to a homestead exemption is on the claimant.") (citing CCP § 703.580(b)) (unpublished disposition).

The California automatic homestead exemption scheme "requires only that the

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Chapter 7

judgment debtor reside in the property as his or her principal dwelling at the time the judgment creditor's lien attaches and continuously thereafter until the court determines the dwelling is a homestead." *Tarlesson v. Broadway Foreclosure Invs., LLC*, 184 Cal.App.4th 931, 937 (2010); *see also* Cal. Civ. Proc. Code § 704.710(c). For purposes of bankruptcy, the debtor must have resided in the subject property on the petition date. *In re Pass*, 553 B.R. 749, 757 (B.A.P. 9th Cir. 2016). "The factors a court should consider in determining whether the debtor has sufficient residency to establish an exemptible interest in the property and, thus, to qualify for the automatic homestead, are physical occupancy of the property and the intention with which the property is occupied." *Tarlesson*, 184 Cal.App.4th at 937.

Under CCP § 704.720(d)—

If a judgment debtor is not currently residing in the homestead, but his or her separated or former spouse continues to reside in or exercise control over possession of the homestead, that judgment debtor continues to be entitled to an exemption under this article *until entry of judgment or other legally enforceable agreement dividing the community property between the judgment debtor and the separated or former spouse, or until a later time period as specified by court order*. Nothing in this subdivision shall entitle the judgment debtor to more than one exempt homestead. Notwithstanding subdivision (d) of Section 704.710, for purposes of this article, "spouse" may include a separated or former spouse consistent with this subdivision.

(emphasis added).

Debtor has not lived in the Walnut Property for years. Debtor's schedules indicate that he lives at the Oakdale Property. Debtor's prepetition agreement to sell the Walnut Property also negates any allegation in the Opposition that Debtor intended to move back into the Walnut Property.

Debtor apparently relies on CCP § 704.720(d), because his former spouse continues to reside at the Walnut Property. However, under CCP § 704.720(d), Debtor only is entitled to an exemption "until entry of judgment or other legally enforceable agreement dividing the community property" or "a later time period specified by court order." Here, a judgment was entered prepetition which divided community property

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between Debtor and his former spouse. Consequently, because Debtor does not reside at the Walnut Property, and because Debtor is not entitled to an exemption under CCP § 704.720(d), Debtor cannot claim a homestead exemption in the Walnut Property.

III. CONCLUSION

The Court will sustain the Objection.

The Trustee must submit an order within seven (7) days.

Party Information

Debtor(s):

Alfredo Velasco Palma

Pro Se

Trustee(s):

David Seror (TR)

Represented By
Richard Burstein
Jessica L Bagdanov

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1:16-12282 Alfredo Velasco Palma

Chapter 7

- #13.00** Motion for entry of order:
(1) Authorizing the private sale of real property free and clear of all liens, interests, claims, and encumbrances pursuant to 11 U.S.C. §§ 363(b) and (f)
(2) Determining that buyer is entitled to a good faith determination pursuant to 11 U.S.C. §363(m)

Docket 31

Tentative Ruling:

Grant.

Movant must submit the order within seven (7) days.

Note: No response has been filed. Accordingly, no court appearance by movant is required. Should an opposing party file a late opposition or appear at the hearing, the Court will determine whether further hearing is required and movant will be so notified.

Party Information

Debtor(s):

Alfredo Velasco Palma

Pro Se

Trustee(s):

David Seror (TR)

Represented By
Richard Burstein
Jessica L Bagdanov